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LETTER DATED 19 MAY 1995 FROM THE SECRETARY-GENERAL ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

You will recall that in its Presidential statement of 27 April 1995 (S/PRST/1995/22), the Security Council welcomed the decision of the Rwandan authorities to establish an independent inquiry with United Nations and other international participation to carry out an investigation of the events at Kibeho and requested the Secretary-General to report to it on these events and on the role of the United Nations Assistance Mission for Rwanda (UNAMIR).

The Independent International Commission of Inquiry commenced its work in Rwanda on 8 May 1995 and concluded it on 18 May 1995, on which day it completed its report. Since the Commission made the report public in Kigali, it also was made available to the media here today.

(Signed) Boutros BOUTROS-GHALI

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Annex

Report of the Independent International Commission of Inquiry into the events at Kibeho in April 1995

1. An outbreak of violence at the camp for internally displaced persons in Kibeho (south-western Rwanda) on 22 April 1995, which resulted in a considerable number of deaths, has aroused shock and horror both in Rwanda itself and the international public. Diverging accounts were given of what exactly had happened, of the numbers of casualties and of the responsibilities of different parties.

2. In a speech on 27 April 1995, the President of the Rwandese Republic, Mr. Pasteur Bizimungu, announced the establishment of an Independent International Commission of Inquiry and invited Belgium, Canada, France, Germany, the Netherlands, the United Nations Organization and the Organization of African Unity (OAU) to participate, together with Rwanda, in the work of the Commission. President Bizimungu set out a number of questions (see below) concerning the Kibeho incident, to which the Commission was to answer and which were to serve as terms of reference.

3. The Commission was formally established in Kigali on 3 May 1995 and it held its first working session on 8 May 1995 with the following members present:

Mr. Marc BRISSET-FOUCAULT, Prosecutor (France)

Mr. Bernard DUSSAULT, diplomat (Canada)

Mr. Koen de FEYTER, Professor of International Law (Belgium)

Mr. Karl FLITTNER, diplomat (Germany)

Mr. Ataul KARIM, diplomat (United Nations organizations)

Dr. Ashraf KHAN, Forensic Pathologist (United Kingdom of Great Britain and Northern Ireland)

Mr. Maurice NYBERG, lawyer (United States of America)

Colonel-Major Abdelaziz SKIK, military expert (OAU)

Ms. Christine UMUTONI, lawyer (Rwanda)

Mr. Ernst WESSELIUS, Prosecutor (Netherlands)

4. At its first working meeting, the Commission appointed by consensus Colonel-Major Skik as its President, Mr. Dussault as its Vice-President and Mr. Wesselius as its Secretary/Rapporteur.

5. The Commission was assisted in its work by:

Mr. Claude Cozar, Prosecutor (France)

Mr. Ron Newman, criminologist (Canada)

Mr. Jan Wilken, criminologist (Netherlands)

as well as by representatives of different ministries of the Government of Rwanda in their capacity as expert advisers.

6. On the basis of numerous interviews with witnesses of the events held in Kigali, Kibeho and Butare between 10 and 17 May 1995, several visits to the site and forensic investigation research in the Kibeho area, as well as briefings given by United Nations and Rwandan officials, the Commission hereby submits its report to the President of the Rwandese Republic on 18 May 1995.

I. CLOSURE OF THE CAMPS

Questions

(a) In which context was taken the decision to close the camps, and what about this very one (Kibeho)?

(b) Especially, what information about militia in the camps was available?

(c) Before proceeding with the closure, did the Government consult various partners involved in this matter?

(d) Was the closure operation aimed to eliminate a certain category of people, especially one ethnic group?

7. Following the assassination of the Presidents of Burundi and Rwanda in the vicinity of Kigali airport on 6 April 1994, a genocide began that would cost the lives of several hundred thousand Rwandans. A civil war started that would lead to the liberation of the country and the establishment of a national coalition Government on 19 July 1994.

8. During those sad months, Rwanda saw both its material and social infrastructure practically destroyed. Kigali city had no more than some tens of thousands of inhabitants and a large part of the Rwandan people were refugees in Zaire, the United Republic of Tanzania and Burundi or were displaced within the country. In addition, hundreds of thousands were dead. Administrative buildings had been pillaged, damaged and sometimes destroyed and services (water, electricity, communications, social) were non-existent. The Government found itself faced with an enormous and complex task, compounded by the problems of bringing the perpetrators of genocide to justice.

9. As soon as the Government was instituted, it could see, as could the international community, that one of the priorities had to be the return of refugees and displaced persons to their home communes. The return of these

people was necessary and urgent in order to restart the Rwandan society and economy, to relieve the destabilizing pressure of the presence of these refugees throughout the region and also for reasons of national security. Indeed, it appeared obvious that, as long as the refugees and displaced persons were not reintegrated into Rwandan society, they would constitute a threat to the security of Rwanda and a permanent social burden.

10. At that time, the international community saw the importance of assisting Rwanda to instill a feeling of security in the country so as to facilitate the return of refugees and displaced persons. Upon the request of the Rwandan Government, the United Nations Assistance Mission for Rwanda (UNAMIR), with a contingent of more than 5,500 troops, was deployed with this intention already in early September 1994. In the course of the same month, international cooperation was mobilized in order to rehabilitate certain infrastructures. Discussions were begun with neighbouring countries, OAU, the United Nations and particularly the Office of the United Nations High Commissioner for Refugees (UNHCR) in order to organize a conference on refugees and displaced persons. Studies were also begun jointly by Rwandan and international experts with a view to preparing a national plan of action that could be supported by donors. The plan in question was submitted in January 1995 at Geneva and the international community responded by pledging some US$ 600 million of the US$ 780 million requested.

11. All these initiatives made possible a steady and significant return of refugees and displaced persons to their communes. Rwanda began normalizing and, over the months, the capital re-established its population and its activities. Many peasants returned to their communes and a sizeable population inhabits Rwanda today. It was still important, however, that all refugees and displaced persons should return home. Unfortunately, a significant number of refugees outside the country and internally displaced persons in camps located in the former protected zone in southern Rwanda refused to return voluntarily for reasons of security, but also because many of these camps were infiltrated by genocidal criminal elements, groups of militiamen and regrouped military. There was fear of eventual rearming; military training was observed to take place. Another factor was that refugees and internally displaced persons gradually became dependent on living conditions provided in the camps.

12. In December 1994, there still remained within the country 38 internally displaced persons camps and Kibeho camp appeared to be a centre of hostility and a threat to internal security.

13. UNAMIR, in consultation with the Government, decided to launch Operation Hope in order to disarm Kibeho. While UNAMIR searched for arms within the camp, the Rwandese Patriotic Army maintained a security cordon on the outside. This operation, which had worried humanitarian organizations, proceeded well, without loss of life. It sent a clear message to those inside Kibeho camp that the Rwandan Government as well as the international community would not accept subversion at Kibeho camp.

14. There was still an urgent need to close the internally displaced persons camps. The Rwandan Government announced the final closure of the camps by the

end of December 1994. The discussions that followed between the Rwandan Government and UNAMIR led to the launching of Operation Return.

15. With a view to supporting Operation Return, a working group was established with the assistance of UNAMIR, including government authorities, United Nations agencies and non-governmental organizations (NGOs), for the purpose of defining and developing policies and strategies concerning internally displaced persons with a view to putting forward as soon as possible a plan of action to make possible the return of these people to their home communes. In order to facilitate the task of the working group and to oversee the implementation of the action plan, the Integrated Operations Centre was established and in March 1995, 21 persons were employed there full time and 38 persons part time.

16. The first formal meeting of the Integrated Operations Centre working group was held on 6 February 1995. Operation Return was reviewed and it was agreed as of then to launch phase II, as the initial operation had had some success but was beginning to run out of steam.

17. In the meantime, faced with the urgency of the situation and the deterioration of security within the camps, the international community, with the support of OAU, UNHCR, as well as many individual countries, agreed to the terms of reference of a conference on refugees and displaced persons in the Great Lakes area, to be held in Bujumbura, from 12 to 17 February 1995. A plan of action was adopted at the end of the Ministerial Conference. Those components concerning Rwanda were as follows:

(a) Measures to be taken by Rwanda:

(i) To continue to broadcast solemn declarations by all competent authorities involved in welcoming in dignity and security refugees and displaced persons within its national borders (para. 23 (b));

(ii) To continue to cooperate fully in the context of a coordinated humanitarian strategy and making good use of functions of the Integrated Operations Centre, with the United Nations agencies and the NGOs in order to facilitate the voluntary return of persons displaced within its national borders (para. 23 (d));

(b) Measures to be taken by the international community:

To support and encourage activities in Burundi and Rwanda which encourage the process of national reconciliation and the voluntary return of displaced persons and refugees to their home communes (para. 30 (a)).

18. On 20 February 1995, the Integrated Operations Centre working group could but observe that very few internally displaced persons had returned to their communes in the preceding week, and on 27 February 1995, the working group noted that Operation Return was no longer yielding satisfactory results, that internally displaced persons did not want to go home, that Kibeho camp was a source of insecurity and that the publicity campaign was not yielding the expected results. The conclusion was reached that Kibeho was becoming a

criminals' sanctuary and that there was no final strategy to have the internally displaced persons return home.

19. In the course of the month of March 1995, the question of security continued to dominate Operation Return. The operation was paralysed by questions of security in the communes, in the camps and in the country. This increased the urgent need that something had to be done.

20. On 6 March 1995, it was agreed officially that 37,000 persons had been transported to their home communes and that a similar number had gone home by foot. It was also agreed that, of that number, 60 per cent had stayed home. Finally, it was noted that there remained 250,000 internally displaced persons and, of that number, 120,000 were then in Kibeho.

21. In view of the new importance of Kibeho camp, the insecurity, the continued dependency of the internally displaced persons on relief and the growing impatience of the Government vis-à-vis these camps and the international community, it had become urgent to review the situation. Many options were discussed on 6 March 1995; more specifically, the following five possibilities were considered:

(a) Closure, as soon as possible and by all possible means;

(b) Voluntary return and the closure of some camps while keeping one or two;

(c) Moving the displaced persons to smaller camps in the vicinity of their home communes;

(d) Reorganization of existing camps by grouping people from the same home commune together;

(e) Photographic record of all displaced persons and regrouping in four permanently patrolled camps.

22. At its meeting on 9 March 1995, the Integrated Operations Centre agreed on the need to close the camps and the five options were reviewed.

23. On 15 March 1995, a strategy was worked on to cover both national security concerns and the need for the return of displaced persons to their home communes. It was agreed to improve reintegration facilities and security in communes; in the camps, it was agreed to increase security and improve the publicity campaign, to arrest intimidators and those who had participated in the genocide. Finally, a proposal was made to register internally displaced persons, to have them move by foot and by vehicle and to end the distribution of food. The operation would end after four weeks with the systematic interrogation of persons remaining in the camps. This strategy, after acceptance by the Government, would be set in motion at most a week after its approval.

24. On 20 March 1995, the urgent need to close the camps was stressed.

25. On 27 March 1995, the Prefect of Gikongoro stated that, for reasons of public order, he could no longer accept the presence of camps in his prefecture.

26. In its information bulletin of 27 March 1995, the Integrated Operations Centre stated that the Government had reiterated its desire to see internally displaced persons back home as soon as possible. It is interesting to note that at that time the figure of 84,000 was used for the number of people in Kibeho.

27. At the time of that Integrated Operations Centre meeting, the representative of the Integrated Operations Centre declared that it would be unfortunate to begin the operation as decided within a fortnight because it would coincide with 6 April 1995, the day of the first anniversary of the start of the genocide, and that it would therefore be preferable to postpone it for a week.

28. The meeting of 2 April 1995 served to clarify certain components, including transport of refugees and curfew in the camps.

29. In a document signed by the Chairman of the Task Force of the Integrated Operations Centre, dated 15 April 1995, it was noted that, at the 3 April 1995 meeting, it had been decided to identify cooperation mechanisms between the armed forces, UNAMIR and human rights observers with regard to the operation as well as arrest and detention procedures. It was also agreed that all members of the working group were ready to launch the operation.

30. In support of the strategy to close the camps, at the request of the Minister of Rehabilitation and Social Integration and of the Minister of Interior, and after consulting with the President, the Vice-President and Minister of Defence decided to deploy the armed forces to surround the remaining eight internally displaced persons camps, including Kibeho.

31. There is no evidence to suggest that the operation was intended to eliminate a certain category of people, especially those belonging to one ethnic group.

II. CONDUCT OF THE OPERATION

Question

How was the operation carried out since 18 April and what actually happened on 22 and 23 April 1995?

32. During the night of 17-18 April 1995, the Rwandese Patriotic Army surrounded the remaining internally displaced persons camps, including the Kibeho camp. At Kibeho, the frightened internally displaced persons moved into the area between the Zambian Company headquarters and the Zambian platoon compound (ZAMBATT). There is conflicting evidence as to whether they moved voluntarily or were coerced into moving.

33. According to both the Rwandese Patriotic Army and UNAMIR witnesses, there was sporadic gunfire. On the morning of 18 April, witness testimony agreed that a stampede resulted in the death of 8 to 11 children.

34. On 19 April 1995, the Rwandese Patriotic Army Chief of Staff and the UNAMIR Deputy Force Commander visited the camp to explain the situation. Many internally displaced persons indicated that they were willing to go home. The slow progress of the registration procedure and the lack of transport added to the problems.

35. On 19 and 20 April 1995, approximately 5,000 internally displaced persons were searched and successfully registered by the Rwandese Patriotic Army and other government agencies and transported to their home communes by UNAMIR. During the process of registration, some of the internally displaced persons were identified as having participated in the genocide by some witnesses.

36. Over this period, the sanitary and other living conditions in the camp deteriorated drastically.

37. Generally, there was no intimidation or violence directed at the internally displaced persons by the Rwandese Patriotic Army, nor hostility by the internally displaced persons towards the Rwandese Patriotic Army. There is some evidence of hostility among the internally displaced persons. In a few instances, the internally displaced persons threw stones at the Rwandese Patriotic Army and, according to some reports, tried to snatch Rwandese Patriotic Army weapons, which resulted in the Rwandese Patriotic Army opening fire and killing between 13 and 22 internally displaced persons.

38. The limited delivery of food and water and general facilities were used as an incentive for the internally displaced persons to leave the camp.

39. In the late afternoon of 20 April 1995, it started to rain. This affected road conditions and worsened the transportation problems.

40. Around midday on 22 April 1995, a large group of internally displaced persons broke through the cordon in the vicinity of the ZAMBATT positions. According to Rwandese Patriotic Army witnesses, there was firing from among the internally displaced persons and the Rwandese Patriotic Army suffered casualties. Internally displaced persons continued to run down the side of the hill into the valley. The Rwandese Patriotic Army responded by firing into the crowd. There is agreement that automatic rifles and machine-guns were employed. Numerous casualties resulted among the internally displaced persons.

41. After the incident, the cordon was re-established. In the late afternoon the cordon was breached for a second time, this time to the west of the camp. Large groups of people ran down the valley. Rwandese Patriotic Army witnesses indicated that some internally displaced persons carried rifles and others were armed with traditional weapons such as machetes and stones. Rwandese Patriotic Army witnesses indicated that there was firing from the internally displaced persons that caused casualties to some Rwandese Patriotic Army soldiers. There is evidence that firearms were captured.

42. The Rwandese Patriotic Army again responded by firing into the crowd, causing numerous casualties. It is clear that automatic rifles and machine-guns were used. Most witnesses from UNAMIR and from one NGO indicate that heavier weapons such as grenades and rocket-propelled grenades were used. There is conflicting UNAMIR testimony on the use of a mortar. It is of interest to note that no physical evidence of mortar fire has been found.

43. There is evidence to indicate that many suffered injuries from machete, stampede and weapons fire, but the exact proportions cannot be determined. There is agreement that machetes were not used by uniformed personnel but rather by civilians.

44. UNAMIR witness testimony indicates that a number of summary executions of internally displaced persons by Rwandese Patriotic Army soldiers took place.

45. During the night of 22 April 1995, there was sporadic fire around the Kibeho camp area including, according to some UNAMIR and Rwandese Patriotic Army sources, sniper fire from the internally displaced persons compound over the ZAMBATT Company headquarters. UNAMIR soldiers were unable to respond because of an inability to distinguish between hostile and non-hostile targets. There were also machete attacks among the internally displaced persons.

46. UNAMIR witnesses indicate that Rwandese Patriotic Army soldiers were burying bodies in pit latrines and shallow graves. Approximately 15 latrines were examined by the Commission and in one of them the body of one child was found. Rwandese Patriotic Army witnesses indicate that bodies washed up in rain after the incident and were subsequently reburied.

47. The scientific evidence corroborated other evidence that bodies related to the Kibeho incident had been buried outside the Kibeho camp. Among the bodies identified, the cause of death ranged from machete, firearm injuries and findings consistent with trampling and hunger. Owing to logistic and time constraints, it was not possible to determine the exact number of fatalities, but it is apparent that the numbers are more than those formally counted in the Kibeho camp.

48. It is interesting to note the unusual discrepancy between the various initial counts and estimates of fatalities and the actual number of non-fatal casualties, suggesting overestimation in the initial fatality counts and estimates.

III. THE ROLE OF THE VARIOUS PARTIES

Question

What was the role, the limitations and the behaviour of the Rwandese Army, non-governmental organizations and UNAMIR?

49. The Commission finds that the operation of the Government of Rwanda to close the internally displaced persons camps was well planned, but that failures occurred in the implementation and ensuing panic. The reactions of the Rwandese

Patriotic Army soldiers to the threat at that stage were disproportionate and, therefore, violative of international law. The Rwandese Patriotic Army did not distinguish between hostile and non-hostile targets and indiscriminate fire by Rwandese Patriotic Army soldiers occurred. There are credible indications that individual Rwandese Patriotic Army soldiers committed summary executions.

Rwandese Patriotic Army

50. The following circumstances contributed to the behaviour of the Rwandese Patriotic Army:

(a) Deficiencies in communication systems. Within the Rwandese Patriotic Army, radios exist at best at the level of the Company Commander and above. The Rwandese Patriotic Army relies on couriers and word-of-mouth to communicate information up the chain-of-command and orders back down. In a crisis situation that changes quickly, it can be very difficult to commanding officers to remain in control;

(b) Deficiencies in equipment. The Rwandese Patriotic Army has limited means with which to apply force. The Rwandese Patriotic Army uses its presence as a form of deterrence and firing in the air as a means of non-lethal force. When these methods are exhausted, there exists an escalation to deadly force. Such methods as tear gas, water cannons, rubber bullets and batons and shields as used for crowd control are not available within the Rwandese Patriotic Army;

(c) Deficiencies in training. The Rwandese Patriotic Army is trained as a guerrilla army and not in law enforcement and security techniques;

(d) Deficiencies in experience. The Rwandese Patriotic Army has never engaged in an operation similar to this. Once the operation unfolded, soldiers relied on a background of little relevance to the problem of separating hostile from non-hostile forces;

(e) Foreseeability. Given the background of genocide, the insecurity in the camp and surrounding area, the unwillingness of people to leave the camp, and examples of hostility towards the Rwandese Patriotic Army from within the camp, it is suggested that the Rwandese Patriotic Army command failed to appreciate the determination with which hard-core elements would refuse to leave the camp voluntarily.

Non-governmental organizations

51. There are credible indications that some NGOs actively contradicted the policies of the Government of Rwanda by encouraging internally displaced persons to remain in Kibeho camp and by pursuing discriminatory hiring practices. Moreover, the decision of a number of NGOs not to cooperate with the closure operation once it began exacerbated the humanitarian crisis.

UNAMIR

52. The mandate of UNAMIR requires it to contribute to the security and protection of displaced persons, refugees and civilians at risk in Rwanda,

including through the establishment and maintenance, where feasible, of secure humanitarian areas.

53. Security Council resolution 965 (1994) requires UNAMIR to protect displaced persons against risks from whatever source, including from the internally displaced persons themselves. There is strong evidence that hard-core criminal elements existed within UNAMIR-protected zones where they engaged in intimidation and acts of violence. UNAMIR did not respond adequately to this situation.

Question

What was the part played by the militia?

54. There was very strong evidence that, over the months that preceded the camp closure operation, there was a heavy build-up of what is known in Rwanda as hard-core elements. By hard-core elements, the Commission means extremists who most likely were deeply involved in criminal activities. The Commission found numerous indications of the widespread use of machetes and other traditional weapons in acts of violence and of a number of firearms within the camp population.

55. The activities of these hard-core elements ranged from verbal intimidation to physical violence and were instrumental in creating an atmosphere of panic among the internally displaced persons, culminating on 22 April 1995. The Commission was not able to obtain specific information on the organization and structure of these hard-core elements.

IV. CONCLUSIONS

Question

Who is actually responsible for the deaths in Kibeho?

56. In the opinion of the Independent International Commission of Inquiry, the tragedy of Kibeho neither resulted from a planned action by Rwandan authorities to kill a certain group of people, nor was it an accident that could not have been prevented.

57. The Commission recognizes the legitimate interests of the Rwandan Government and of the international community to have the displaced persons camps closed as quickly as possible, both for reasons of national security and in order to remove an important obstacle to the country's efforts to recover from the devastating effects of last year's genocide.

58. The Commission recognizes the efforts made by the Special Representative of the Secretary-General, UNAMIR, the Government of Rwanda and other organizations to keep the situation at Kibeho under control.

59. The Commission regrets that United Nations agencies and NGOs were not able to contribute more efficiently to the speedy evacuation of internally displaced persons from the camp.

60. There is sufficient reliable evidence to establish that, during the events at Kibeho camp between 18 and 23 April 1995, unarmed internally displaced persons were subjected to arbitrary deprivation of life and serious bodily harm by Rwandese Patriotic Army military personnel in violation of human rights and humanitarian law.

61. There is sufficient reliable evidence to establish that, during the events at Kibeho camp between 18 and 23 April 1995, unarmed internally displaced persons were subjected to serious human rights abuses, including arbitrary deprivation of life and serious bodily harm, committed by armed elements among the internally displaced persons themselves.

V. RECOMMENDATIONS

62. The Commission welcomes the initiative taken by the Rwandan Government to carry out an investigation at the national level. The Commission calls upon the Rwandan authorities to carry out an analysis of mistakes that occurred in the preparation and handling of the closure of the camps, as well as a thorough, prompt and impartial investigation of individual responsibilities within its armed forces and any other factors that may have contributed to the event.

63. In the future, high priority should be given to improving the capability of Rwandan State and local authorities to react adequately and within the internationally recognized framework of human rights and of humanitarian law to situations of social tension and emergency.

64. The Commission recommends that the international community continue encouraging and assisting Rwanda in its efforts to achieve justice, national reconciliation and reconstruction.

65. The Commission calls on the United Nations system to review its chain-of-command and its operation procedures to make sure that in the future an entire operation is not held hostage or bogged down by one or several agencies and organizations with limited mandates and responsibilities.

Done at Kigali,

on the 18th of May 1995

(Signed): Marc BRISSET-FOUCAULT

Bernard DUSSAULT

Koen de FEYTER

Karl FLITTNER

Ataul KARIM

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